

GROSS GAMING REVENUE TAX ORDINANCE
Ordinance # 09-100-05

Section 1. Purpose; Findings

1.01. *Purpose.* The purpose of this Ordinance is to institute a tax on the gross gaming revenues of the Tribe's gaming Enterprise, in order to fund the reasonable regulatory costs incurred by the Tribal Gaming Commission and the reasonable fees, expenses and internal overhead costs incurred by the Tribe in overseeing the Enterprise.

1.02. *Findings.* The Tribal Council, in adopting this Ordinance, makes the following findings –

- a. The Tribal Council has the delegated authority and responsibility to enact ordinances to protect the general welfare of the Little River Band;
- b. The Tribal Council and the Tribal Gaming Commission have the responsibility and duty to ensure that the gaming Enterprise is properly regulated and that adequate tribal supervision of the Enterprise exists;
- c. The Tribal Council desires to ensure that adequate funding exists to fulfill these responsibilities; and
- d. The Tribal Council has the sovereign authority to enact taxes to fund its governmental operations.

Section 2. Adoption; Amendment; Repeal

2.01. *Adoption.* This Ordinance is adopted by the Tribal Council by Resolution # 01-0425-08.

a. *Resolution # 06-0830-602 - Emergency amendments to application of tax revenues in section 6.01.*

b. Resolution #09-0304-56 - amended to prohibit expenditure of funds until an audit of the Enterprise financials has been completed.

2.02. *Amendment.* This Ordinance may be amended from time to time as set forth in the Constitution or in procedures adopted by the Tribal Council.

Section 3. Definitions.

3.01. For purposes of this Ordinance, certain terms are defined in this Section. The word "shall" is always mandatory and not merely advisory.

3.02. "Commencement Date" shall mean the first date that Gaming is conducted in the Permanent Facility pursuant to the terms of the Management Agreement then in effect.

3.03. "Compact" shall mean the gaming compact between the Tribe and the State of Michigan, dated as of December 3, 1998 and all amendments, entered into pursuant to Section 11(d)(3) of IGRA, as the same may from time to time be in effect.

3.04. "Enterprise" shall mean the Little River Band of Ottawa Indians Casino Resort and any other gaming enterprise-established by the Tribe to engage in gaming.

3.05. "Gaming" shall mean any and all activities constituting class II or class III gaming (as defined in IGRA) which the Tribe is authorized to conduct under the Compact.

3.06. "Generally Accepted Accounting Principles" or "GAAP" shall mean generally accepted accounting principles as applied within the United States.

3.07. "Gross Gaming Revenue Tax" shall mean the tax instituted and imposed by this Ordinance.

3.08. "Gross Gaming Revenue (Win)" shall mean the net win from gaming activities conducted by the Enterprise which is the difference between gaming wins and losses before deducting costs

and expenses, determined in accordance with GAAP consistently applied.

3.09. "IGRA" shall mean the Indian Gaming Regulatory Act of 1988, PL 100-497, 25 U.S.C. s.2701 et seq., as same may from time to time be amended.

3.10. "Interim Facility" shall mean the interim gaming facility constructed by the Tribe on the Property as it exists on the Effective Date of this Ordinance.

3.11. "Loan Agreement" shall mean the Taxable Construction Loan Agreement evidencing the Loan, as defined in the Management Agreement.

3.12. "Management Agreement" means the Management Agreement dated as of July 15, 1999, as amended as of August 15, 1999 between the Manager and the Tribe, as it may be further amended or restated from time to time.

3.13. "Manager" shall mean Manistee Gaming LLC, or any substitute or successor manager of the Enterprise.

3.14. "Permanent Facility" shall mean the permanent gaming facility, conference center, hotel, pool house and RV park to be constructed on the Property by the Tribe.

3.15. "Regulatory costs" shall mean any and all costs associated with regulatory activities conducted by the Tribal Gaming Commission and/or Regulatory Agency.

3.16. "Tribal Gaming Commission" and/or "Regulatory Agency" shall mean the Little River Band of Ottawa Indians Gaming Commission created pursuant to the Tribal Gaming Ordinance to regulate Gaming of the Tribe in accordance with the Compact, IGRA and the Tribal Gaming Ordinance.

3.17. "Tribal Gaming Ordinance" shall mean the ordinance enacted by the Tribe, which authorizes and regulates Gaming on lands subject to the governmental power of the Tribe, as the same may be amended from time to time.

Section 4. Administration.

4.01. *Records and Record Keeping.* The Enterprise shall retain all records necessary for the administration of the taxes imposed under this Ordinance for a period of at least three years from the date such taxes were paid to the Tribe. All of such records are subject to audit by the Tribe.

Section 5. Gross Gaming Revenue Tax.

5.01. *Imposition of Tax.* A tax is imposed on the Gross Gaming Revenue (Win) of the Enterprise in the amount of two and one-half per cent (2.5%) of such Gross Gaming Revenue (Win) generated as a result of Gaming conducted at any Interim Facility and three per cent (3%) of such Gross Gaming Revenue (Win) generated as a result of Gaming conducted at any Permanent Facility.

5.02. *Collection and Payment of Tax.* The tax imposed by section 5.01 hereof shall be payable monthly in arrears, no later than twenty days after the end of each month. The Enterprise shall deliver to the Tribe a certificate signed by an officer stating the amount of the tax and showing how such amount was computed.

5.03. *Admission of Tax.* The tax imposed by this Ordinance shall be administered by the Tribal Ogema in conjunction with Tribal Council. The Tribal Ogema may promulgate rules to administer this Ordinance and may prescribe the form of certificate to be filed at the time the tax is paid by a Gaming Enterprise subject to this tax.

5.04. *Effective Date.* This Ordinance shall be effective immediately upon adoption by Tribal Council Resolution.

Section 6. Use of Gross Gaming Revenue Tax Proceeds.

6.01. *Use of Proceeds.* Proceeds from the gross gaming revenue tax shall be used for the following purposes and in the priority set forth in this section.

- a. To fund all regulatory costs incurred by the Tribal Gaming Commission (“Regulatory Agency”).
- b. Unexpended prior year funds shall be utilized solely for the purpose of funding general welfare program costs in accordance with the following:
 - i. Funds shall not be expended until an audit of the Enterprise financials has been completed.
 - ii. A reconciliation between amounts budgeted at the governmental level and funds certified through the Enterprise audit shall be completed to identify whether excess funding is available or a decrease in funding is necessary.
 - iii. The Tribal Accounting Department shall present the reconciliation along with suggested budget modifications to the Ogema for review.
 - iv. The Ogema shall present to the Tribal Council any budget modifications necessary to reconcile the current fiscal year budget for approval by Resolution.

6.02. *Deposit of Tax Revenues.* All tax revenues received under this Ordinance shall be deposited by the Tribal Ogema to the credit of the general fund and shall be disbursed only in accordance with the Budget and Appropriations Ordinance for the purposes described in section 6.01.

6.03. *Penalties.* Failure to pay any tax revenues required by this Ordinance in a timely manner shall result in a \$5000.00 penalty assessed on a daily basis.